

City Council Chambers 3300 Capitol Avenue Fremont, California

City Council

Bob Wasserman, Mayor Anu Natarajan, Vice Mayor Bob Wieckowski Bill Harrison Suzanne Lee Chan

City Staff

Fred Diaz, City Manager
Harvey E. Levine, City Attorney
Melissa Stevenson Dile, Deputy City Manager

Dawn G. Abrahamson, City Clerk
Harriet Commons, Finance Director
Marilyn Crane, Information Technology Svcs. Dir.
Daren Fields, Economic Dev. Director
Mary Kaye Fisher, Interim Human Resources Dir.
Annabell Holland, Parks & Recreation Dir.
Norm Hughes, City Engineer
Jill Keimach, Community Dev. Director
Bruce Martin, Fire Chief
Jim Pierson, Transportation & Ops Director
Jeff Schwob, Planning Director
Suzanne Shenfil, Human Services Director
Craig Steckler, Chief of Police
Elisa Tierney, Redevelopment Director

City Council Agenda and Report [Redevelopment Agency of Fremont]

General Order of Business

- 1. Preliminary
 - Call to Order
 - Salute to the Flag
 - Roll Call
- 2. Consent Calendar
- 3. Ceremonial Items
- 4. Public Communications
- 5. Scheduled Items
 - Public Hearings
 - Appeals
 - Reports from Commissions, Boards and Committees
- 6. Report from City Attorney
- 7. Other Business
- 8. Council Communications
- 9. Adjournment

Order of Discussion

Generally, the order of discussion after introduction of an item by the Mayor will include comments and information by staff followed by City Council questions and inquiries. The applicant, or their authorized representative, or interested citizens, may then speak on the item; each speaker may only speak once to each item. At the close of public discussion, the item will be considered by the City Council and action taken. Items on the agenda may be moved from the order listed.

Consent Calendar

Items on the Consent Calendar are considered to be routine by the City Council and will be enacted by one motion and one vote. There will be no separate discussion of these items unless a Councilmember or citizen so requests, in which case the item will be removed from the Consent Calendar and considered separately. Additionally, other items without a "Request to Address the City Council" card in opposition may be added to the consent calendar. The City Attorney will read the title of ordinances to be adopted.

Agenda and Report • Fremont City Council Meeting • January 6, 2009



Addressing the Council

Any person may speak once on any item under discussion by the City Council after receiving recognition by the Mayor. Speaker cards will be available prior to and during the meeting. To address City Council, a card must be submitted to the City Clerk indicating name, address and the number of the item upon which a person wishes to speak. When addressing the City Council, please walk to the lectern located in front of the City Council. State your name. In order to ensure all persons have the opportunity to speak, a time limit will be set by the Mayor for each speaker (see instructions on speaker card). In the interest of time, each speaker may only speak once on each individual agenda item; please limit your comments to new material; do not repeat what a prior speaker has said.

Oral Communications

Any person desiring to speak on a matter which is not scheduled on this agenda may do so under the Oral Communications section of Public Communications. Please submit your speaker card to the City Clerk prior to the commencement of Oral Communications. Only those who have submitted cards prior to the beginning of Oral Communications will be permitted to speak. Please be aware the California Government Code prohibits the City Council from taking any immediate action on an item which does not appear on the agenda, unless the item meets stringent statutory requirements. The Mayor will limit the length of your presentation (see instructions on speaker card) and each speaker may only speak once on each agenda item.

To leave a voice message for all Councilmembers and the Mayor simultaneously, dial 284-4080.

The City Council Agendas may be accessed by computer at the following Worldwide Web Address: www.fremont.gov

Information

Copies of the Agenda and Report are available in the lobbies of the Fremont City Hall, 3300 Capitol Avenue and the Development Services Center, 39550 Liberty Street, on Friday preceding a regularly scheduled City Council meeting. Supplemental documents relating to specific agenda items are available at the Office of the City Clerk.

The regular meetings of the Fremont City Council are broadcast on Cable Television Channel 27 and can be seen via webcast on our website (www.Fremont.gov).

Assistance will be provided to those requiring accommodations for disabilities in compliance with the Americans with Disabilities Act of 1990. Interested persons must request the accommodation at least 2 working days in advance of the meeting by contacting the City Clerk at (510) 284-4060. Council meetings are *open captioned* for the deaf in the Council Chambers and *closed captioned* for home viewing.

Availability of Public Records

All disclosable public records relating to an open session item on this agenda that are distributed by the City to all or a majority of the City Council less than 72 hours prior to the meeting will be available for public inspection in specifically labeled binders located in the lobby of Fremont City Hall, 3300 Capitol Avenue during normal business hours, at the time the records are distributed to the City Council.

Information about the City or items scheduled on the Agenda and Report may be referred to:

Address: City Clerk

City of Fremont

3300 Capitol Avenue, Bldg. A

Fremont, California 94538

Telephone: (510) 284-4060

Your interest in the conduct of your City's business is appreciated.

AGENDA FREMONT CITY COUNCIL REGULAR MEETING JANUARY 6, 2009 COUNCIL CHAMBERS, 3300 CAPITOL AVE., BUILDING A 7:00 P.M.

1. PRELIMINARY

- 1.1 Call to Order
- 1.2 Salute the Flag
- 1.3 Roll Call
- 1.4 Announcements by Mayor / City Manager

2. CONSENT CALENDAR

Items on the Consent Calendar are considered to be routine by the City Council and will be enacted by one motion and one vote. There will be no separate discussion of these items unless a Councilmember or citizen so requests, in which event the item will be removed from the Consent Calendar and considered separately. Additionally, other items without a "Request to Address Council" card in opposition may be added to the consent calendar. The City Attorney will read the title of ordinances to be adopted.

- 2.1 Motion to Waive Further Reading of Proposed Ordinances (This permits reading the title only in lieu of reciting the entire text.)
- 2.2 Approval of Minutes for the Special Work Session and Regular Meetings of December 9, 2008, the Regular Meeting and Work Session of December 16, 2008, and the Special Meeting of December 16, 2008
- 2.3 Second Reading and Adoption of an Ordinance of the City of Fremont amending Zoning Regulations in the Fremont Municipal Code for Emergency, Supportive and Transitional Housing
- 2.4 Second Reading and Adoption of an Ordinance of the City of Fremont Rezoning Property Located at 41075 Railroad Avenue from Light Industrial to Planned District P-2005-131
- 2.5 Second Reading and Adoption of an Ordinance of the City of Fremont Adopting Development Agreement (DA-PLN2005-00131) Between the City and West Coast Venture Capital, LLC Related to the Development of Property Generally Located at 41075 Railroad Avenue in the Irvington Planning Area

2.6 ACCEPTANCE OF REDEVELOPMENT AGENCY ANNUAL REPORT OF FINANCIAL TRANSACTIONS AND HOUSING ACTIVITIES REPORT

Acceptance of the Fremont Redevelopment Agency's Annual Report of Financial Transactions and Housing Activities Report

Contact Person:

Phone:

Name: Irene Klebanivska Elisa Tierney

Title: Redevelopment Agency Business Redevelopment Agency Director

Manager

Dept.: Office of Housing and Office of Housing and

 Redevelopment
 Redevelopment

 510-494-4510
 510-494-4501

E-Mail: iklebanivska@fremont.gov etierney@fremont.gov

RECOMMENDATION: Accept the Redevelopment Agency Annual Report as submitted to the State Controller.

2.7 LANDFILL AND TRANSFER STATION RATE CHANGES

Adopt Resolution Updating Landfill and Transfer Station Rate Schedules to Reflect 2009 Regulatory Fee Increases and Appropriate \$80,000 of Integrated Waste Management Disposal Differential Reserve to Offset Impact on Solid Waste Collection Rates

Contact Person:

Name: Ken Pianin Kathy Cote

Title: Solid Waste Administrator Environmental Services Division

Manager

Dept.: Transportation & Operations Transportation & Operations

 Phone:
 510-494-4582
 510-494-4583

 E-Mail:
 kpianin@fremont.
 cote@fremont.gov

RECOMMENDATIONS:

- 1. Adopt a resolution setting disposal fees at the Tri-Cities Recycling and Disposal Facility Landfill effective January 1, 2009, as shown in enclosure A of this report.
- 2. Adopt a resolution setting disposal fees at Altamont Landfill, effective January 1, 2009, as shown in enclosure B of this report.
- 3. Adopt a resolution setting service fees at the Fremont Recycling and Transfer Station, effective January 1, 2009, as shown in enclosure C of this report.
- 4. Adopt a resolution retaining Solid Waste Collection fees previously set for the 2008/2009 rate period and funding the anticipated impact of the Facility Fee increase for the remainder of the 2008/2009 rate period with an \$80,000 appropriation of Integrated Waste Management Disposal Differential Reserve, as shown in enclosure D of this report.

2.8 REPORT OF ACTIONS TAKEN DURING COUNCIL RECESS

Report of Actions Taken by the City Manager during Council Recess, December 17, 2008 through January 5, 2009

Contact Person:

Name:Dawn AbrahamsonMelissa Stevenson DileTitle:City ClerkDeputy City ManagerDept.:City Clerk's OfficeCity Manager's Office

Phone: 510-284-4063 510-284-4005 E-Mail: dabrahamson@fremont.gov mdile@fremont.gov

RECOMMENDATION: Receive report acknowledging actions taken by the City Manager or designee during the recess.

3. CEREMONIAL ITEMS

- 3.1 Proclamation: National Blood Donor Month
- 3.2 Resolution: Honoring John Hal for Thirty Five Years of Service Upon His

Retirement

4. PUBLIC COMMUNICATIONS

4.1 Oral and Written Communications

REDEVELOPMENT AGENCY – The Redevelopment Agency Board will convene at this time and take action on the agenda items listed on the Redevelopment Agency Agenda. See separate agenda (yellow paper).

PUBLIC FINANCING AUTHORITY – The Public Financing Authority Board will convene at this time and take action on the agenda items listed on the Public Financing Authority Agenda. See separate agenda (lilac paper).

CONSIDERATION OF ITEMS REMOVED FROM CONSENT CALENDAR

5. SCHEDULED ITEMS – None.

6. REPORT FROM CITY ATTORNEY

6.1 Report Out from Closed Session of Any Final Action

7. OTHER BUSINESS

7.1 BECADO PLACE REVEGETATION PLAN

Update to Council Regarding Tree Removal at the Becado Elm Grove and Citizen Comments for Becado Place Revegetation Plan

Contact Person:

Name: Gene Waddell Jim Pierson Title: Special Assistant Director

Dept.: Transportation & Operations Transportation & Operations

Phone: 510- 979-5750 510- 494 - 4722

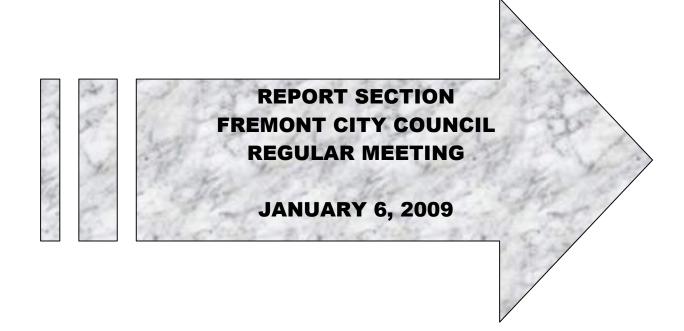
E-Mail: gwaddell@fremont.gov jpierson@fremont.gov

RECOMMENDATION: Receive information and provide comment on the Becado Revegetation Plan, if desired.

8. COUNCIL COMMUNICATIONS

- 8.1 Council Referrals None.
 - 8.1.1 MAYOR WASSERMAN REFERRAL: Reappointments to advisory bodies.
- 8.2 Oral Reports on Meetings and Events

9. ADJOURNMENT



*2.3 Second Reading and Adoption of an Ordinance of the City of Fremont amending Zoning Regulations in the Fremont Municipal Code for Emergency, Supportive and Transitional Housing

ENCLOSURE: Draft Ordinance

RECOMMENDATION: Adopt ordinance.

*2.4. Second Reading and Adoption of an Ordinance of the City of Fremont Rezoning Property Located at 41075 Railroad Avenue from Light Industrial to Planned District P-2005-131

ENCLOSURE: Draft Ordinance

RECOMMENDATION: Adopt ordinance.

*2.5. Second Reading and Adoption of an Ordinance of the City of Fremont Adopting Development Agreement (DA-PLN2005-00131) Between the City and West Coast Venture Capital, LLC Related to the Development of Property Generally Located at 41075 Railroad Avenue in the Irvington Planning Area

ENCLOSURE: Draft Ordinance

RECOMMENDATION: Adopt ordinance.

*2.6 ACCEPTANCE OF REDEVELOPMENT AGENCY ANNUAL REPORT OF FINANCIAL TRANSACTIONS AND HOUSING ACTIVITIES REPORT Acceptance of the Fremont Redevelopment Agency's Annual Report of Financial Transactions and Housing Activities Report

Contact Person:

Phone:

Name: Irene Klebanivska Elisa Tierney

Title: Redevelopment Agency Business Redevelopment Agency Director

Manager

Dept.: Office of Housing and Office of Housing and

Redevelopment Redevelopment 510-494-4510 510-494-4501

E-Mail: iklebanivska@fremont.gov etierney@fremont.gov

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Note: A companion item appears on the January 6, 2009 Redevelopment Agency agenda.

Executive Summary: Under State law, the Redevelopment Agency is required to submit an annual report to the City Council. This agenda item provides information on the annual report and recommends that the Council accept the report.

BACKGROUND: State law and regulations require the Fremont Redevelopment Agency to submit an annual report to the State Controller's Office by December 31 of each year and to submit the report to the Agency's Legislative Body. Copies of the report were distributed to the Agency Board and the report was sent to the State on December 30, 2008. As required, the report comprised the Annual Report of Financial Transactions of Community Redevelopment Agencies, the Redevelopment Agency's financial and compliance audit, the Annual Report of Housing Activity of Community Redevelopment Agencies, the Blight Progress Report, the Loan Report, and the Property Report.

The Legislative Body is required to review the report and take any action it deems appropriate no later than its first meeting that occurs no more than 21 days from when it received the report, which is the January 6, 2009 Council and Agency meeting.

In addition to the above report, the Mitigation Monitoring Program report is submitted annually to the City Council and Redevelopment Agency Board. This report is required by the Resolution through which the Council and Agency certified the Environmental Impact Report for the 1998 Redevelopment Plan Amendments. No action is required on this report. Copies of the reports discussed above are available for public review in the Office of Housing and Redevelopment.

ENCLOSURES: Redevelopment Agency Annual Report

RECOMMENDATION: Accept the Redevelopment Agency Annual Report as submitted to the State Controller.

*2.7 LANDFILL AND TRANSFER STATION RATE CHANGES

Adopt Resolution Updating Landfill and Transfer Station Rate Schedules to Reflect 2009 Regulatory Fee Increases and Appropriate \$80,000 of Integrated Waste Management Disposal Differential Reserve to Offset Impact on Solid Waste Collection Rates

Contact Person:

Name: Ken Pianin Kathy Cote

Title: Solid Waste Administrator Environmental Services Division Manager

Dept.: Transportation & Operations Transportation & Operations

Phone: 510-494-4582 510-494-4583

E-Mail: kpianin@fremont.gov kcote@fremont.gov

Executive Summary: Fremont's solid waste collection rates encompass the various components of providing solid waste services to Fremont residents and businesses. The rates include fees for waste collection, transfer station services, recycling processing and landfill disposal. The solid waste collection rates are set by the City Council biennially and the current rates are scheduled to be in effect through December 31, 2009. The next biennial rate adjustment is scheduled for January 2010.

In late June 2008, the Alameda County Solid Waste Authority (Authority) board increased its Facility Fee from \$1.50 to \$2.00, effective January 1, 2009. This regulatory fee increase was approved after the City's rate setting process was concluded; therefore, the increase was not reflected in the 2008/2009 solid waste fee schedules. This unexpected increase will have a ripple effect on the landfill disposal fees, the transfer station fees, and the solid waste collection rates. In response, staff recommends processing a mid-cycle rate adjustment to update the landfill disposal and transfer station fee schedules to reflect the increased Facility Fee. In order to minimize the impact on Fremont ratepayers, staff is recommending against processing a mid-cycle adjustment to the solid waste collection rates. Instead, staff recommends funding the additional regulatory fee for Fremont ratepayers fees with Integrated Waste Management (IWM) Disposal Differential Reserve for the remainder of the rate period. This impact is estimated to be \$80,000 for the remainder of the current rate period. The increased fee will be incorporated in solid waste collection rates as part of 2010/2011 rate setting. There is no General Fund impact.

BACKGROUND: The Facility Fee is set by the Alameda County Waste Management Authority, a JPA consisting of 14 Alameda County jurisdictions, including Fremont. The Facility Fee is a per ton charge assessed on all solid waste landfilled within the county and is used to fund countywide waste diversion and recycling programs. The Facility Fee is reflected in both the Tri-Cities Landfill and the Altamont Landfill rate schedules as a regulatory pass through and is part of the total landfill disposal fee. In late June 2008, the Authority Board approved increasing the Facility Fee from \$1.50 to \$2.00, effective January 1, 2009. This increase was approved after the City's rate setting and budget processes were concluded; therefore, the increase was not reflected in either the landfill fee schedules or the FY 2008/09 budget. The landfill fee is part of the transfer station tip fee, which in turn is part of the solid waste collection rates; therefore, this unanticipated regulatory fee increase has a ripple effect through several fee and rate schedules.

The City has an Integrated Waste Management (IWM) Disposal Differential Reserve that can be used to offset unexpected or mid-cycle disposal or transfer station fee increases for Fremont ratepayers. For

2008/2009 rate setting, the City Council approved solid waste collection rates that included the use of approximately \$1.5 million of IWM Disposal Differential Reserve over the two year period to fund the difference between the actual disposal rate approved and the disposal rate assumed in the solid waste collection rates. There is adequate IWM Disposal Differential Reserve to absorb the impact of the Facility Fee increase for the remainder of the 2008/2009 rate period. Staff anticipates that any Disposal Differential Reserve remaining after 2009 would be used in the 2010/2011 rate setting.

Discussion: While the specific adjustment formula varies by contract, each solid waste agreement provides for a biennial fee adjustment. The City chose a biennial (rather than annual) rate-setting cycle to reduce the number of rate increases experienced by the City's residential and business customers. In addition, the City's solid waste contracts provide flexibility to address mid-cycle cost items either through rate changes or through some other compensation mechanism. Due to the impact on the ratepayers and the administrative effort involved in changing several hundred individual solid waste collection rates, staff generally recommends using an alternative compensation mechanism versus implementing mid-cycle collection rate increases. The City has established both the IWM unallocated fund balance and the Disposal Differential Reserve to fund items (e.g., regulatory fee changes, extraordinary cost items) that surface during the rate period until the item can be incorporated into the rate structure during the next biennial rate setting cycle.

The landfill disposal and the self-haul transfer station rates that are set by the City Council also apply to waste material delivered to the Fremont transfer station from Union City and Newark. The City could choose not to implement a mid-cycle rate adjustment on the landfill and transfer station fees; however, the City would then be responsible for compensating the landfill and transfer station service providers for the shortfall on all delivered waste, including material generated outside of Fremont. In order to avoid that situation, staff is recommending setting new landfill and transfer station rates that reflect the revised Facility Fee and deferring incorporating this increase into Fremont's solid waste collection rates until the next rate setting cycle in 2010. Staff further recommends funding the Facility Fee increase applicable to Fremont solid waste collection rates with IWM Disposal Differential Reserve (fund balance). Staff estimates that \$80,000 will be needed for the remainder of the 2008/2009 rate period.

Since staff is recommending updating both the Tri-Cities Landfill and Altamont landfill fee schedules to incorporate the increased Facility Fee, the updated Altamont Landfill fee schedule should also reflect 2009 CPI adjustments to the Measure D and Open Space Fees. These are additional regulatory fees that are part of the total Altamont Landfill fee and subject to an annual CPI. The City has not previously processed mid-cycle rate adjustments for these changes because it was unnecessary as the City is not using the Altamont Landfill yet. However, while the rate schedule is being updated for the Facility Fee, all of the components of that rate schedule should be updated. There will not be any financial impact in 2009, however, since the City is unlikely to deliver material to Altamont Landfill until after 2010.

ENCLOSURES:

- A Tri-City Recycling and Disposal Facility Rate Resolution
- B Altamont Landfill Rate Resolution
- C Fremont Recycling and Transfer Station Rate Resolution
- D Solid Waste Collection Fee Resolution

RECOMMENDATIONS:

- 1. Adopt a resolution setting disposal fees at the Tri-Cities Recycling and Disposal Facility Landfill effective January 1, 2009, as shown in enclosure A of this report.
- 2. Adopt a resolution setting disposal fees at Altamont Landfill, effective January 1, 2009, as shown in enclosure B of this report.
- 3. Adopt a resolution setting service fees at the Fremont Recycling and Transfer Station, effective January 1, 2009, as shown in enclosure C of this report.
- 4. Adopt a resolution retaining Solid Waste Collection fees previously set for the 2008/2009 rate period and funding the anticipated impact of the Facility Fee increase for the remainder of the 2008/2009 rate period with an \$80,000 appropriation of Integrated Waste Management Disposal Differential Reserve, as shown in enclosure D of this report.

*2.8 REPORT OF ACTIONS TAKEN DURING COUNCIL RECESS

Report of Actions Taken by the City Manager during Council Recess, December 17, 2008 through January 5, 2009

Contact Person:

Name:Dawn AbrahamsonMelissa Stevenson DileTitle:City ClerkDeputy City ManagerDept.:City Clerk's OfficeCity Manager's Office

Phone: 510-284-4063 510-284-4005

E-Mail: dabrahamson@fremont.gov mdile@fremont.gov

Executive Summary: The purpose of this report is to notify City Council of the administrative actions taken by the City Manager or his designee during the Council recess December 16, 2008 through January 5, 2009.

BACKGROUND: On December 9, 2008, City Council adopted Resolution No. 2008-65, authorizing the City Manager or designee to approve administrative matters specified in the resolution during the legislative recess period. All of the contract awards were at or below the budgeted amount which are shown below. Following is the status of items specified in Resolution No. 2008-65:

1. Title: Recreation Service Agreement – Science Activities (Mad Doug,

Inc. dba Mad Science of the Bay Area)

Staff Contact: Laurie Rogers, Recreation Superintendent II, 494-4332 Name of Contracting Party: Mad Doug, Inc. dba Mad Science of the Bay Area

Budgeted Amount: \$80,000 was budgeted for two-year contract. Based on customer

demand for Mad Science classes, \$115,000 was needed to execute

contract payments through May 31, 2009.

Action: Executed an amendment to the service agreement with Mad Doug,

Inc. dba Mad Science of the Bay Area.

2. Title: Amendment No. 1 to Occupancy, Operation and Maintenance

Agreement for Fremont Main Library and Alameda County

Library Administrative Office and Agreement to Provide Janitorial Services to the Main Library, Centerville Library and Irvington

Library

Staff Contact: Maya Williams, Management Analyst II, 284-4013

Melissa Dile, Deputy City Manager, 494-4005

Name of Contracting Party: Alameda County

Budgeted Amount: \$163,200 (\$136,000 plus 20% administrative fee) in the first year

Action: No action was taken during the Council recess.

3. Title: Revised Deferred Compensation Plan Documents Staff Contact: Harriet Commons, Finance Director, 284-4010

 $\begin{tabular}{ll} Name of Contracting Party: & N/A \\ Budgeted Amount: & N/A \\ \end{tabular}$

Action: No action was taken during the Council recess.

ENCLOSURE: None.

RECOMMENDATION: Receive report acknowledging actions taken by the City Manager or designee during the recess.

6.1	Report Out from Closed Session of Any Final Action

7.1 BECADO PLACE REVEGETATION PLAN

Update to Council Regarding Tree Removal at the Becado Elm Grove and Citizen Comments for Becado Place Revegetation Plan

Contact Person:

Name: Gene Waddell Jim Pierson Title: Special Assistant Director

Dept.: Transportation & Operations Transportation & Operations

Phone: 510-979-5750 510-494-4722

E-Mail: gwaddell@fremont.gov jpierson@fremont.gov

Executive Summary: The purpose of this report is to provide Council with an update regarding the status of activity at two sites of the Becado Elm Grove around Sabercat Creek. During a storm in late November 2007, eight large dead elm trees on City property fell onto three backyards of adjacent homes on Excelso Drive. A City contractor cleared these trees and cut down an additional eight large dead/dying elm trees in the immediate area that were about to fall. In an effort to avoid property or personal damage at an adjacent site that fronts Becado Place, the City directed its contractor to remove 30 dead or dying large elm trees in January 2008. Although City staff had planned to provide advance notice to the Becado Place neighbors, it failed to do so. As a result, several of the neighbors who live on Becado Place attended the February 5, 2008 Council meeting to complain about the trees being cut down, the City's lack of prior notice, and its failure to secure a California Department of Fish & Game (DFG) permit to cut down the trees. City staff took full responsibility for failing to inform the neighbors and at the Council's direction agreed to work with the DFG and the neighbors and promised to return to the Council when a revegetation plan was developed.

Staff has now completed an extensive process with the California Department of Fish & Game and the neighbors and has prepared the attached revegetation plan. DFG has asked the City to submit a Streambed Alteration Permit application as part of their process to review and approve the revegetation plan. In order to implement the revegetation plan during the prime winter planting months and prior to the start of migratory bird nesting season on February 1, staff submitted the permit application and associated revegetation plan to DFG in November. It is hoped that the DFG will accept the City's revegetation plan prior to the Council meeting. Staff will update the Council on the progress with DFG at the meeting and is seeking Council questions or comments with regard to the revegetation plan before the City's contractor begins work in January.

BACKGROUND: The Becado Elm Grove was donated to the City during 1970s development in the area. The Grove is populated by a large number of large elm trees, most of which have succumbed to Dutch Elm disease and are either dead or in distress.

Eight large dead or dying elm trees fell onto three backyards of private residences on Excelso Drive during a storm in late November 2007. After further inspection, staff found that an additional eight dead or dying elm trees were about to fall, and had those trees cut down as well to prevent any additional property loss and avoid any personal injury to homeowners or anyone walking in the area. Trees that fell on private property were cleared; remaining tree debris was left in place for removal in March 2008 to

allow the water-saturated soil to firm up. Staff provided notice to all affected residents on Excelso Drive about this work and had discussions with a few homeowners regarding claims for damage.

Staff contacted a number of agencies during this time, including DFG; the Alameda County Flood Control District (ACFC); the Alameda County Water District (ACWD); and the San Francisco Public Utilities Commission (SFPUC). A response was not received from DFG until February 14, 2008; ACFC responded by saying that they had no issues with tree removal; and SFPUC granted an emergency permit to cross over their buried pipelines to access the fallen trees. ACWD did not have an issue with tree removal but had a concern about an abandoned well found at the site.

Staff was also concerned about a number of other dead or dying elm trees located on City property fronting Becado Place across Sabercat Creek from where the eight trees fell. Staff found that thirty elm trees near Becado Place posed a threat to public safety because they were near the adjacent pedestrian path and public street. In an effort to minimize property loss or personal injury, staff directed a contractor to fell the trees in January 2008. The dead or dying trees at the Becado site were very tall and unstable, making it unsafe for the contractor to climb the trees safely. The trees therefore had to be cut down from the ground. This situation ultimately resulted in damage to a number of smaller trees bordering the site when the large elms fell. Due to wet ground conditions, removal of the downed trees at the Becado site was also planned for March 2008.

At the time the trees were cut, staff understood that a DFG permit was not required for this action as it represented maintenance of city property, which is generally viewed as being exempt from DFG permit requirements, and because the subject trees were not in the creek channel. However, in its haste to mitigate safety issues, staff neglected to notify the homeowners who live on Becado Place about its plans to cut the trees down. Once the trees were felled, neighbors were quite upset and aired their views during the public comment period of the February 5, 2008 Council meeting. At the meeting, staff explained its error of not informing the neighbors and promised to report to Council once a revegetation plan was developed. In addition to expressing their concerns to Council, neighbors contacted a number of agencies, including DFG, and demanded an investigation. The DFG complied with that request.

Discussion: Since the February Council meeting, staff has kept in contact with all affected agencies and the neighbors. Although staff's original intention was to have all of the tree removal and revegetation work completed by March 31, the DFG investigation, a permit from the San Francisco PUC (needed to cross over their Hetch-Hetchy water pipes) and a required wildlife assessment delayed any work until September 2008, after the migratory bird nesting season ended. The removal of the downed trees was completed in October.

In April, staff met with DFG representatives at the site and learned that DFG would require a revegetation plan be prepared and submitted as part of a DFG Streambed Alteration Permit application. This is the permit requested by DFG because the trees were, in their opinion, within the riparian area of the creek, even though the City believed that no streambed alteration had occurred. In August, the City hired an environmental restoration consultant who has extensive experience working with DFG to prepare a revegetation plan for Becado Place and assist staff with preparing the Streambed Alteration Permit application. After a draft revegetation plan was prepared, staff and the consultant met with Becado Place residents and representatives from DFG on October 30 to review the initial plan. Residents were asked to submit their comments about the draft plan, and to the extent possible, staff incorporated

the residents' input and the initial input from DFG into a second draft revegetation plan. This revised plan was submitted to DFG for approval, along with a Streambed Alteration Permit application on, November 26.

Revegetation Plan - In an effort to provide a viable revegetation plan, the City hired an environmental consultant familiar with DFG requirements to survey the area and develop a revegetation plan. The City's environmental consultant has prepared a comprehensive revegetation plan that was discussed with the neighbors and DFG during a community meeting on October 30. The proposed revegetation plan calls for eradicating many of the invasive "exotic" plants and planting native trees, shrubs, and grasses in the impacted portion of the elm grove. Staff and the consultant are confident that the plan will improve the Becado Place site and complies with DFG requirements. The plan calls for using "tree pots", which are small trees that have been grown from native trees in the immediate area. Although it will take several years for these trees to mature, the DFG recommends their use since they have a greater long-term survival rate than planting larger trees.

The proposed revegetation plan also includes a ten-year monitoring and maintenance program suggested by DFG and the residents to ensure the new plantings are successful. The monitoring and maintenance will be the responsibility of City Maintenance staff, with the assistance of an environmental consultant. Although some residents asked for several additional large dead elm trees and live poplar trees to be removed as part of the plan, staff responded that these trees are not a safety concern and the City does not have sufficient budget to remove and replant additional trees. Further, in their comments during the October 30 community meeting, DFG representatives mentioned that, barring safety concerns, the remaining dead elm trees serve as wildlife habitat.

The proposed revegetation plan (see Enclosure A), includes the following activities at the one-half acre Becado Place site: 1) eradication of invasive plant species by mowing, severing and spraying; 2) removal of 110 additional diseased elm saplings; 3) planting 77 tree pot-size native trees, including oak, buckeye, cottonwood, willow, sycamore, and elder; 4) planting 93 tree pot-size native shrubs, including elderberry, wild rose, and California coffeeberry; 5) planting 12 gallon-size toyon shrubs; and 6) planting 11,000 native grass plugs, including rye, sedge, and California brome.

Staff hopes to have DFG approval of the Streambed Alteration Permit and associated revegetation plan by the time this item goes to Council and would like to begin revegetation efforts in early January to take advantage of the prime winter planting season. Beginning the work in early January should allow cutting and removing the 110 diseased elm saplings, eradication of invasive plant species, and installation of native trees and shrubs (all activities that require limited use of power tools) before February 1, which is the start of migratory bird nesting season that does not end until September. Installation of native grasses using hand tools will follow in mid-February after locally grown grass "plugs" are ready for installation. Therefore, staff has initiated the process to hire a contractor to remove the remaining non-native plants and complete the revegetation. Pending Council comments on the revegetation plan, staff will authorize the contractor to begin work in early January 2009. If any changes to the plan are required as a result of Council comments, a revised plan will be submitted to DFG for approval. The estimated cost for the proposed revegetation work is approximately \$30,000 and will be funded from the Maintenance Department operating budget.

Staff has advised the neighbors that it is awaiting approval from DFG and plans to begin revegetation work in early January pending Council review. Staff has also advised the neighbors that this matter is scheduled for the January 6, 2009 Council meeting.

ENCLOSURE: Enclosure A, Becado Place Revegetation Plan

RECOMMENDATION: Receive information and provide comment on the Becado Revegetation Plan, if desired.

8.1 Council Referrals

8.1.1 MAYOR WASSERMAN REFERRAL: Reappointments to advisory bodies with terms expiring as follows:

Reappointments:

Advisory Body Appointee Term Expires

Environmental Services

Advisory Commission Thomas Browne December 31, 2012

(representing Environmental Organization)

Historical Architectural

Review Board Andrew MacRae December 31, 2012

Library Commission Dharminder Dewan December 31, 2012

Deepinder (Ruchi) Nijjar December 31, 2010*

*Commissioner Nijjar was reappointed for a four year term on September 5, 2006. At the time of reappointment, the staff report indicated an incorrect term expiration date of December 31, 2011. This will serve to correct the term expiration date to be in accordance with Section 2-3102 of the Municipal Code which regulates the term of office for members of Council-established City Boards, Commissions and Committees at four years.

David Bonaccorsi	December 31, 2012
Esther Hobbs	December 31, 2012
Alex Kwon Manali Shah Erica Thompson Niveditha Puranikmath Edward Nguyen Sabrina Merchant	December 31, 2009 December 31, 2009 December 31, 2009 December 31, 2009 December 31, 2009 December 31, 2009
	Esther Hobbs Alex Kwon Manali Shah Erica Thompson Niveditha Puranikmath

ENCLOSURES: None.

8.2 Oral Reports on Meetings and Events

ACRONYMS

ABAG Association of Bay Area Governments	FUSD Fremont Unified School District
ACCMA Alameda County Congestion	GIS Geographic Information System
Management Agency	GPA Geographic information System GPA General Plan Amendment
ACE Altamont Commuter Express	HARB Historical Architectural Review Board
ACFCD Alameda County Flood Control District	HBA Home Builders Association
ACTA Alameda County Frood Control District ACTA Alameda County Transportation	HRC Human Relations Commission
• •	
Authority Alemada County Transportation	ICMA International City/County Management Association
ACTIA Alameda County Transportation	
Improvement Authority	JPA Joint Powers Authority
ACWDAlameda County Water District	LLMD Lighting and Landscaping Maintenance District
BAAQMD Bay Area Air Quality Management	
District	LOCCLeague of California Cities
BART Bay Area Rapid Transit District	LOS Level of Service
BCDCBay Conservation & Development	MOU Memorandum of Understanding
Commission	MTC Metropolitan Transportation Commission
BMPsBest Management Practices	NEPA National Environmental Policy Act
BMRBelow Market Rate	NLC National League of Cities
CALPERSCalifornia Public Employees' Retirement	NPDES National Pollutant Discharge Elimination
System	System
CBDCentral Business District	NPO Neighborhood Preservation Ordinance
CDDCommunity Development Department	PC Planning Commission
CC & R's Covenants, Conditions & Restrictions	PD Planned District
CDBGCommunity Development Block Grant	PUCPublic Utilities Commission
CEQACalifornia Environmental Quality Act	PVAW Private Vehicle Accessway
CERTCommunity Emergency Response Team	PWCPublic Works Contract
CIPCapital Improvement Program	RDA Redevelopment Agency
CMACongestion Management Agency	RFP Request for Proposals
CNGCompressed Natural Gas	RFQ Request for Qualifications
COFCity of Fremont	RHNA Regional Housing Needs Allocation
COPPSCommunity Oriented Policing and Public	ROP Regional Occupational Program
Safety	RRIDRO Residential Rent Increase Dispute
CSACCalifornia State Association of Counties	Resolution Ordinance
CTCCalifornia Transportation Commission	RWQCB Regional Water Quality Control Board
dBDecibel	SACNET Southern Alameda County Narcotics
DEIRDraft Environmental Impact Report	Enforcement Task Force
DODevelopment Organization	SPAA Site Plan and Architectural Approval
DU/ACDwelling Units per Acre	STIP State Transportation Improvement
EBRPDEast Bay Regional Park District	Program
EDAC Economic Development Advisory	TCRDF Tri-Cities Recycling and Disposal Facility
Commission (City)	T&O Transportation and Operations
EIREnvironmental Impact Report (CEQA)	Department
EISEnvironmental Impact Statement (NEPA)	TOD Transit Oriented Development
ERAFEducation Revenue Augmentation Fund	TS/MRF Transfer Station/Materials Recovery
EVAW Emergency Vehicle Accessway	Facility
FARFloor Area Ratio	UBC Uniform Building Code
FEMAFederal Emergency Management Agency	USD Union Sanitary District
FFDFremont Fire Department	VTA Santa Clara Valley Transportation
FMCFremont Municipal Code	Authority
FPDFremont Police Department	WMA Waste Management Authority
FRCFamily Resource Center	ZTAZoning Text Amendment
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UPCOMING MEETING AND CHANNEL 27 BROADCAST SCHEDULE

	BK	OADCAST SCHEDUL	E	
Date	Time	Meeting Type	Location	Cable Channel 27
January 13, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
January 20, 2009	TBD	Work Session	Council Chambers	Live
January 27, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
February 2, 2009 (Monday)	4:00 p.m.	Joint City Council/FUSD Mtg.	Council Chambers	Live
February 3, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
February 10, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
February 17, 2009	TBD	Work Session	Council Chambers	Live
February 24, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
March 3, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
March 10, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
March 17, 2009	TBD	Work Session	Council Chambers	Live
March 24, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
March 31, 2009 (5 th Tuesday)		No Meeting		
April 7, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
April 14, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
April 21, 2009	TBD	Work Session	Council Chambers	Live
April 28, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live